

THE EFFECTIVE DATE OF THIS ORDINANCE IS OCTOBER 5, 2006

ORDINANCE NO. 06-31-427

OPINION, FINDINGS AND ORDINANCE  
OF  
THE BOARD OF COUNTY COMMISSIONERS  
OF  
FREDERICK COUNTY, MARYLAND

RE: MONOCACY LAND COMPANY, LLC

REZONING CASE NO. R-06-01

OPINIONS/FINDINGS

Monocacy Land Company, LLC filed this application to change the zoning classification of 181.42 acres from the Office Research Industrial (ORI) zoning district to the Mixed Use Development (MXD) floating zone, all as more fully described in the record. This property is located on the east side of I 270, the southwest side of Maryland 355 and south of Park Mills Road in the Urbana Planning Region.

The staff of the Frederick County Planning Commission recommended approval of this request subject to eight (8) conditions. The Planning Commission forwarded this application to the Board of County Commissioners without recommendation. A Planning Commission motion to recommend denial of the request failed on a tie vote. A motion to recommend approval of the MXD zoning with a reduction in the residential component and other conditions also failed on a tie vote.

Based on all of the evidence submitted in this case, the Board makes the following specific findings of fact (in addition to the findings above) on each of the matters mentioned in Md. Code Ann., Art. 66B, § 4.05(a):

**1. POPULATION CHANGE:**

With a maximum of 500 dwelling units in this MXD with a residential component, this proposal would add approximately 1,204 people to the population.

**2. AVAILABILITY OF PUBLIC FACILITIES:**

**A. SCHOOLS**

The Urbana Town Center MXD site is served by Urbana Elementary School, Windsor Knolls Middle School, Urbana Middle School and Urbana High School. As of the March 31, 2006, data supplied by the Frederick County Public Schools, the capacities of the schools were as follows: Urbana Elementary School 72%; Windsor Knolls Middle School 121%; Urbana High School 97%. The Urbana Middle School is scheduled to open in the Fall of 2006. For purposes of determining projected capacities and enrollments, it is assumed that the property will consist of 300 dwelling units with school age children. This is calculated by taking the 500 total dwelling units allowed and subtracting the 200 age restricted units for a total of 300 units with student generation. If all 300 units are developed as townhouse dwellings, the proposal would generate 141 elementary school students, 24 middle school students and 33 high school students for a total of 198 students. If all 300 units are developed as multi-family dwellings, then the project will generate: 15 elementary school students, 6 middle school students and 6 high school students for a total of 27 students.

**B. FIRE AND RESCUE SERVICES**

The Urbana Volunteer Fire and Rescue Company located on the south side of Maryland 355 next to the Urbana Elementary School is situated less than ½ mile from this site. Old Maryland 355 and Lew Wallace Street would provide direct vehicular access to the site for emergency vehicles. Emergency support is also available via the Green Valley Substation of the New Market Volunteer Fire Company. This is within the established service area guidelines.

#### C. POLICE SERVICE

The Frederick County Sheriff's Office and the Maryland State Police provide police protection.

#### D. LIBRARIES

This area is served by the Frederick County central facility, the C. Burr Artz Library in the City of Frederick. The Urbana Region Library is currently under construction less than ½ mile from the central core of this project. This facility will open by 2007.

#### E. PARKS AND RECREATION FACILITIES

The Urbana Community Park is located at the south terminus of Lew Wallace Street at its intersection with Old Maryland 355 immediately adjacent to the subject property. The 95 acre Urbana District Park is situated directly across Maryland 355 from this site. A master plan for the park has been approved and the design and engineering phase is underway.

#### F. WATER AND SEWER

This property is designated S-4 DEV/W-4 DEV (service in 4 - 6 years). Water and sewer service would be provided by way of connections at the intersection of Lew Wallace Street and Maryland 355.

#### G. SUMMARY

Public facilities are or will be available to serve the proposed development.

### 3. **PRESENT AND FUTURE TRANSPORTATION PATTERNS:**

The Urbana Region Plan designates I 270 as a freeway/expressway. To the north of this site, Maryland 355 is designated as an arterial while a planned collector is shown passing across the site connecting Worthington Blvd with the planned arterial along the alignment of Park Mills Road. Relocated Maryland 355 is scheduled to be completed as far as its intersection with Maryland 80 by the end of 2006. This property will be subject to APFO testing at a later stage in the development process. Several road improvement projects are planned or proposed in this area.

4. **COMPATIBILITY WITH EXISTING AND PROPOSED DEVELOPMENT FOR THE AREA:**

The proposed MXD is located in an area planned for intense employment oriented development. Although this site is located in an area historically utilized for agriculture this is rapidly developing into residential and employment uses as provided in the County's Comprehensive Plan. The proposed use is compatible with existing and proposed development for this area.

5. **RECOMMENDATION OF THE FREDERICK COUNTY PLANNING COMMISSION:**

The Frederick County Planning Commission forwarded this application without a recommendation.

6. **RELATIONSHIP WITH THE FREDERICK COUNTY COMPREHENSIVE PLAN:**

The proposed MXD zoning is consistent with the Urbana Region Plan land use designation of ORI (Office Research Industrial). The proposed employment uses on the site are consistent with the intended use of the area. The proposed MXD on this site will further implement the development of the I 270 employment corridor outlined in the Urbana Region Plan (2004).

Based on all the evidence submitted in this matter, the Board of County Commissioners determines that this project concept as approved is both feasible and desirable. The Board determines that the MXD district with conditions satisfies the objectives and requirements set forth in subsections A through G of Frederick County Code § 1-19-324 with the conditions below. The approved MXD satisfies the purposes and objectives of the MXD district. This approved MXD allows for the introduction of a mixture of uses in an integrated manner while encouraging an efficient use of the land. The MXD as approved provides for heterogeneity and convenience while creating a sense of community. This approved MXD also creates an environment that ensures the

integration and compatibility of the project with existing and proposed surrounding development while acting as a focal point for the area. This approved MXD also creates appropriate open spaces, civic buildings and architectural treatments that act as landmarks, symbols and activity centers that provide a strong sense of identity and uniqueness. This approved MXD fosters a pedestrian friendly environment.

The Maximum Permitted Land Use Mix percentage for this MXD shall be as follows: residential - a maximum of 23.42%; commercial - a maximum of 50,000 square feet of floor area; employment - a minimum of 49.84%; civic/open space/recreation - a minimum of 19.29%.

The proposed MXD floating zone classification will be granted subject to the conditions stated below.

### ORDINANCE

BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND, that for the reasons set forth above, Rezoning Case No. R-06-01 is hereby **GRANTED** for the reclassification of 181.42 acres of land, more or less (as delineated in the record), from the Office/Research/Industrial (ORI) zone to the Mixed Use Development (MXD) Floating Zone, subject to the following conditions<sup>1</sup>:

1. A maximum of 500 dwelling units may be constructed within this MXD site. At least 200 of these 500 dwelling units must be age restricted to persons age 55 or above. Covenants shall restrict 100% of these 200 units to be age restricted in accordance with the Federal Fair

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<sup>1</sup> The term "developer" as used in the conditions of this Ordinance includes all present and future owners and developers of this property specifically including all heirs, successors and assigns (as may be applicable) These conditions run with the land

Housing Act and Housing for Older Persons Act of 1995 (as amended). These covenants shall be recorded prior to the recording of the first residential subdivision plat. The covenants shall be recorded and made a part of the title for each age restricted dwelling unit and every property owner within the age-restricted community (and the community association) shall be beneficiaries of the covenants with the ability to enforce them through administrative or judicial proceedings. These covenants are to be reviewed by the County Attorney's Office to ensure that the residential component of this MXD floating zone classification is invalid if these covenants are not recorded and do not restrict age in a binding and enforceable manner. The required biannual federal surveys (24CFR 100.307) shall be available to the County for its review and records.

2. The developer shall follow a phasing plan for the MXD as described below:
  - No residential development shall be permitted on the MXD site until a minimum of 50,000 square feet of employment uses have been constructed. When this threshold has been reached, the developer may record plats for up to 150 residential dwelling units in the MXD.
  - After an additional 50,000 square feet of employment uses are constructed within the MXD, the developer may record plats for the remaining residential dwelling units.
  - For the purposes of meeting the thresholds set forth in this phasing plan, any portion of the 50,000 square feet of commercial uses proposed in the MXD may count toward the employment total once the initial 50,000 square feet of employment uses have been constructed.
3. The developer shall reserve a 70 ft. wide right-of-way along the alignments approved by Frederick County for the ultimate use of the I-270 Transitway project as described in the Urbana Region Plan.
4. As part of the Phase II MXD approval process, the developer shall work with staff to identify and incorporate into the project appropriate design elements – in addition to the alignment for the I-270 Transitway - that ensure the development is transit serviceable.
5. The developer shall contribute \$250,000 to the County to establish a dedicated fund for the purpose of initiating a planning study for the I-270 Transitway or other regional transportation improvements. Such

contribution shall be paid within 30 days of the signing of the Letter of Understanding (LOU) for the Urbana Town Center Employment District MXD by the Frederick County Planning Commission.

6. The developer shall construct a Collector roadway within the MXD site to the northern boundary of the site. This alignment shall allow for the future extension of the collector road to its terminus at Park Mills Road. Additionally, the developer shall prepare a design and engineering study for the extension of the collector road to its ultimate terminus at Park Mills Road.
7. The developer shall provide convenient and safe connections to both the Urbana District Park and the Urbana Community Park through the provision of direct links between the vehicular, pedestrian, and trail systems in the park facilities and the MXD development. These connections shall be developed in such a way as to provide safe, controlled access points to the parks.
8. Architectural and streetscape guidelines for the project shall be approved by the Planning Commission prior to the recordation of any final plats.

The conditions included as part of the granting of this MXD floating zone request are deemed necessary for the health, safety and welfare of the community; are imposed as an integral part of this approval; and are not separable from the decision to grant the requested floating zone classification. If, for any reason, a court of competent jurisdiction finds that any material portion of any of these conditions is substantially invalid or unenforceable, the zoning shall revert to the previous ORI zoning classification.

AND BE IT FURTHER ENACTED AND ORDAINED BY THE BOARD, that the Zoning Administrator is hereby authorized and directed to make the appropriate change on the Zoning Map showing this reclassification, with conditions, as indicated above.

The undersigned hereby certify that this Ordinance was approved and adopted  
on the 5<sup>th</sup> day of October, 2006.

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

By: Michael L. Cady  
Michael L. Cady, Vice President

John R. Lovell, Jr.  
John R. Lovell, Jr.

Jan H. Gardner  
Jan H. Gardner

ATTEST:

Douglas D. Browning  
Douglas D. Browning  
County Manager

Bruce L. Reeder  
Bruce L. Reeder

Commissioner John L. Thompson, Jr. voted against the proposed MXD floating  
zone classification.